



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 30, 1995

Mr. Leonard W. Peck, Jr.  
Assistant General Counsel  
Legal Affairs Division  
Texas Department of Criminal Justice  
P.O. Box 99  
Huntsville, Texas 77342-0099

OR95-1329

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 25890.

You received a request for information about the provision of college instruction to inmates of the Texas Department of Criminal Justice (TDCJ). The requestor asks for the following information<sup>1</sup> about specific public institutions of higher education that provide course work in TDCJ facilities:

Copies of any correspondence to and from TDC or Windham with said institution pertaining to prison education programs and the disbursement of state or federal funds for students in same.

You describe the college program as follows:

A limited number of TDCJ inmates are qualified for and permitted to take college courses while in prison. We arrange for the provision of such services by contracting with several colleges to deliver courses in our facilities. The contracts provide for setoffs against the tuition

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<sup>1</sup>The requestor asked for eight categories of information, but TDCJ objected only to release of documents in category No. 4, correspondence relating to prison education programs and disbursement of funds for students in those programs. We assume that TDCJ has made the rest of the information available to the requestor.

we pay for any Pell Grant or other monies which might be available for tuition and other costs to the inmate students in the college. Periodically we receive reports from the various colleges identifying each student they have enrolled, the number of hours, the total tuition, the amounts of Pell Grant, and the remaining Windham tuition.

The representative sample you have provided is a list of inmates by name and social security number with the hours and total tuition and fees for each inmate, and the amount of Pell Grant and remaining tuition for certain inmates. You argue that the names and social security numbers of the inmate students are excepted from release by sections 552.101 and 552.114 of the Government Code. We first address section 552.114(a) of the Government Code, which excepts from disclosure "information in a student record at an educational institution funded wholly or partly by state revenue."

This office determined that the City of Houston Police Academy was an "educational institution" within the predecessor of section 552.114(a) because its exclusive purpose was to provide training and instruction in skills and because it was an extension of a state university and a community college that received state funding. Open Records Decision No. 427 (1985). Applying the reasoning of Open Records Decision No. 427(1985), we conclude that the Department of Criminal Justice, Institutional Division, is not an educational institution, because the provision of instruction and training is not its primary purpose. See Act of May 25, 1995, H.B. 2162, § 1.012, 74th Leg., R.S. (amending Gov't Code § 494.001).

Chapter 29<sup>2</sup> of the Education Code, however, authorizes the Board of Corrections, now the Texas Board of Criminal Justice, to establish and operate schools for inmates "who are not high school graduates." Educ. Code §§ 29.02, 29.04. In our opinion, the schools operated by the Department of Criminal Justice pursuant to chapter 29 of the Education Code are educational institutions funded by state revenue within section 552.114 of the Government Code. However, the records before us relate to college courses taken by inmates. Thus, the records are not records of an educational institution established under Education Code chapter 29, and they are not excepted from public disclosure by section 552.114 of the Government Code.

We next consider whether names and social security numbers of inmates and the number of hours taken are confidential pursuant to section 552.101 of the Government Code, which prevents the public disclosure of "information considered to be confidential

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<sup>2</sup>At the time this request was submitted, chapter 29 of the Education Code authorized the Department of Criminal Justice to establish and operate schools. Educ. Code ch. 29 (repealed by Act of May 30, 1995, S.B. 1, § 58, 74th Leg., R.S.). For that reason, we will use the provisions of former chapter 29 of the Education Code to describe the school established by TDCJ. Revised provisions relating to schools in the prison system have been adopted and codified in chapter 19 of the Education Code. Act of May 30, 1995, S.B. 1, § 1, 74th Leg., R.S.

by law, either constitutional, statutory, or by judicial decision." You have cited no authority indicating that the name of an inmate taking college classes is confidential under section 552.101 of the Government Code. Moreover, decisions of this office have found similar types of records to be open to the public. Open Records Decision No. 244 (1980) required the disclosure of class lists of students at a public junior college.<sup>3</sup> Open Records Decision No. 508 (1988) required the disclosure of the names of prisoners transferred from a county jail to the former Department of Corrections, now the Department of Criminal Justice, Institutional Division. We find no reason to withhold the names of inmates taking course work or the number of class hours and tuition information applicable to each one.

This office has traditionally held that social security numbers are available to the public under the Open Records Act. Open Records Decision No. 622 (1994) at 1-2. However, a 1990 amendment to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), provides confidentiality for a social security number obtained or maintained by a governmental body pursuant to any provision of law, enacted on or after October 1, 1990. See Open Records Decision No. 622 (1994). You have not provided us with any information about your authority to maintain inmates' social security numbers. Thus, we advise you to consult the federal law to determine whether it would require you to withhold inmates' social security numbers. In the absence of such a requirement, the social security numbers are also open to the public.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/SLG/rho

Ref.: ID# 25890

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<sup>3</sup>Since the Family Education Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, applied to the education records of the public junior college at issue in Open Records Decision No. 244 (1980), disclosure of the class lists was subject to the act's procedures for disclosing "directory information."

Enclosures: Submitted documents

cc: Mr. Robert Obenhaus  
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(w/o enclosures)